

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MICHAEL A. LEE, JR.,

Plaintiff,

v.

Case No. 22-cv-0930-bhl

GINA AMBASAN,

Defendant.

DECISION AND ORDER

Plaintiff Michael Lee is incarcerated at Redgranite Correctional Institution and representing himself in this 42 U.S.C. §1983 case. On September 2, 2022, the Court screened his complaint and allowed him to proceed on an Eighth Amendment claim based on allegations that for nearly two years Defendant Correctional Officer Gina Ambasan repeatedly had sexual contact with him. Discovery closed on October 17, 2023; the parties may move for summary judgment by November 17, 2023. On October 10, 2023, a week before discovery closed, Lee filed a motion to extend the discovery deadline by sixty-one days. He also filed his fourth motion to appoint counsel and a motion for leave to depose the Defendant. For the reasons explained below, the Court will deny Lee's motions.

In support of his motion to extend the discovery deadline, Lee asserts that his institution interfered with his law library time and that he was not allowed to access the library for thirty days after receiving a conduct report. He also explains that he requested documents from the Prison Rape Elimination Act (PREA) coordinator and the Racine district attorney's office. He states that the PREA facilitator has contacted internal affairs to obtain documents for him.

Lee's assertions do not establish good cause for extending the discovery deadline. Lee filed his first set of interrogatories and document requests more than four months ago on June 8, 2023.¹ In addition to those requests, he received responses to public records requests and possesses documents from an internal affairs investigation. *See* Dkt. Nos. 40-1, 41-1. Lee does not explain what additional information he needs to prepare or respond to a motion for summary judgment. As the Court has repeatedly noted, Lee's claim that Defendant engaged in an improper sexual relationship with him is straightforward and will largely turn on his recollection of what happened. Lee can tell the Court his version of what happened in an affidavit or an unsworn declaration under 28 U.S.C. §1746. Finally, while Lee asserts that his access to the law library has been limited, he does not explain why he needs to access the law library to prepare discovery requests, which should not include legal citations or argument and which he can write by hand. Because Lee has not provided good cause for extending the discovery deadline, the Court will deny his motion.

Lee also filed a fourth motion to appoint counsel. The Court will deny the motion for the reasons explained in its July 7 and August 16, 2023 decisions. *See* Dkt. Nos. 37, 42. Lee's communications with the Court have been clear, organized, and easy to understand and he appears competent to represent himself through summary judgment.

Finally, the Court will deny Lee's motion to depose the Defendant. Lee explains that Defendant recently pled guilty to charges arising out of their alleged improper sexual relationship. Defendant denies that her plea was related to the claimed sexual encounter; she asserts that it deals with "giving property to an inmate." Dkt. No. 48. In any event, Lee failed to comply with the notice provisions of Fed. R. Civ. P. 30(b), and given that he is indigent, it is unclear how he would

¹ A few days later, on June 13, 2023, the Court warned Lee that he had to serve his discovery requests consistent with the requirements of Fed. R. Civ. P. 5(d).

comply with the recording obligations in Fed. R. Civ. P. 30(b)(3). Because discovery is now closed, the Court will deny his motion.

IT IS THEREFORE ORDERED that Lee's motion for an extension of time (Dkt. No. 44) is **DENIED**.

IT IS FURTHER ORDERED that his fourth motion to appoint counsel (Dkt. No. 45) is **DENIED without prejudice** and his motion for leave to depose Defendant (Dkt. No. 45) is **DENIED**.

Dated at Milwaukee, Wisconsin on October 23, 2023.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge